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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,534	04/18/2001	Corey S. McEnhill	052833-5006	6844

9629 7590 05/21/2003

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EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,534

Applicant(s)

MCENHILL ET AL.

Examiner

Katarzyna Wyrozebski Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- ☐ Interview Summary (PTO-413) Paper No(s) _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

In the light of the applicant's amendment filed on 3/4/2003 following final office action has been necessitated.

All the rejections over the prior art of record are not overcome and are incorporated herein by reference. Newly added claim 21-23 are also rejected by the prior art of Yamamoto, since the density, that is viewed, as property of the composition will overlap if the components of the composition and their properties overlap.

112 rejections second paragraph stated in last office action mailed on 10/4/2002 are hereby overcome.

In the amendment filed on 3/4/2003 applicant has argued following issues:

a) There are differences between the present invention and the prior art of Yamamoto that the amount of the polyethylene/polypropylene polymer a.

With respect to the above argument the examiner disagrees. In a nice table that the applicants have provided on page 7 of the response, it is clearly shown, that everything, except for the percentage of A overlaps. Example 9 of Yamamoto, although teaches specific amounts cannot be solely relied on. Since this is a 103 rejection, the examiner cannot disregard the rest of the specification of the prior art. Although the examiner appreciates in depth explanation of why the prior art of Yamamoto does not teach the present invention, the applicants have not

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established satisfactory argument as to why it would not be obvious to modify the ranges of Yamamoto per teaching disclosed in that prior art.

b) The article of the prior art of Yamamoto would result in inadequate rigidity.

With respect to the above argument, it is examiner's position that the rigidity has not been discussed in the present invention nor it has been disclosed in the examples. Therefore discussion of the rigidity is moot. Statement that one of ordinary skill in the art would not have motivation in Yamamoto to select other ranges would not successfully produce the article of the present invention does not overcome the prior art. As long as the ranges overlap and are disclosed by the specification of the prior art motivation to modify the prior art exist within.

c) The prior art of Yui does not cure the deficiencies of Yamamoto.

With respect to the above argument, the prior art of Yui was not utilized, as it would seem from applicant's response to provide limitation of ethylene-butene copolymer. Just because some paragraph was underlined in the prior art printout, it does not mean anything. The examiner has explicitly indicated in the office action mailed on 10/4/2003 that the prior art of Yui was utilized to show that higher amounts of ethylene/propylene copolymer would have been obvious modification. Therefore the applicant's argument of ethylene/butene rubber does not address the issue at hand. The applicant has not provided an argument why such particular modification would not be obvious.

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In the amendment filed on 3/04/2003 the applicants have also provided prior art EP 739,940 in 1449. EP patent although provides 3 basic components, which are E/P copolymer, E/B copolymer and talc do not teach properties of the polymers utilized. In case of E/P polymer melt flow rate, ethylene content is not disclosed. The E/B copolymer limitation does not have disclosed melt flow rate and density. The EP prior art therefore will not be applied against present claims.

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

KIWL
May 19, 2003

EDWARD J. CAIN
PRIMARY EXAMINER
GROUP 1500
